

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **April 9, 2002**

AGENDA ITEM NO.: 16

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Rezoning – Burruss Land Company**

RECOMMENDATION: Approval of the requested rezoning.

SUMMARY: Burruss Land Company has petitioned to rezone approximately 12.7 acres at 211 Irvington Springs Road from B-5 (Conditional), General Business District, to R-1, Single-Family Residential District, to allow the residential development of the subject property and eliminate potential undue restrictions on the property from the previously approved commercial zoning. The Planning Division (PD) recommended approval of the rezoning petition because:

- Petition agrees with the *General Plan*, which recommends a Medium Density Residential use.
- Petition will reduce the intensity of a small existing commercially use parcel.
- Petition is considered to be more compatible with the surrounding area than the existing zoning.

The petition was considered by the Planning Commission (PC) on March 20, at which time the Planning Commission recommended approval of the petition. At the same meeting, the PC approved a preliminary subdivision plat for the proposed residential development of the larger tract that encompasses the subject parcel.

PRIOR ACTION(S): March 20, 2002:
Planning Division recommended approval of rezoning petition
Planning Commission recommended approval (7-0) of petition.

FISCAL IMPACT: N/A

CONTACT(S):
Rachel Flynn/ 847-1508, ext. 253
Bill McDonald/ 847-1508, ext. 257

ATTACHMENT(S):

- Ordinance
- PC Report
- PC minutes
- Vicinity Zoning Pattern
- Vicinity Proposed Land Use
- Site plan

REVIEWED BY:

ORDINANCE

AN ORDINANCE CHANGING A CERTAIN AREA FROM B-5 (CONDITIONAL), GENERAL BUSINESS DISTRICT TO R-1, SINGLE FAMILY RESIDENTIAL DISTRICT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG That in order to promote the public necessity, convenience, general welfare, and good zoning practice that 35.1 of the Code of the City of Lynchburg, 1981, as amended, be, and the same is hereby further amended by adding thereto Section 35.1-76.____, which section shall read as follows:

Section 35.1-76.____. Change of a certain area from B-5 (Conditional), General Business District to R-1, Single Family Residential District.

The area embraced within the following boundaries . . .

That certain parcel of land consisting of approximately 12.73 acres, more or less, being generally circular in shape, lying primarily on the northerly side of a private road which extends in a southeasterly direction from Irvington Springs Road, Route 650, and also lying partly on the southerly side of said private road, with the center of the circle being located approximately 800 feet with a heading of 341.5° northwest from the existing Tower No. 3, with the circle having circumference of 420 feet from its center, said circle beginning at a point being the Southern corner of the property now for formerly owned by B.C. Cook; thence in a Southeasterly direction along an arc 420 feet from the center of the circle continuing to the circle's southernmost point, and thence in a northeasterly direction continuing along the same arc 420 feet from the center of the circle until it meets the dividing line between the property now or formerly owned by WLVA of Lynchburg, Inc., and the property now or formerly owned by P.J. Hendrix; thence along the dividing line between the said property now or formerly owned by WLVA of Lynchburg, Inc., and the property now or formerly owned by P.J. Hendrix, in a northerly direction a distance of approximately 460 feet to a point, thence continuing a northwesterly direction along an arc 420 feet from the center of the circle until the arc reaches its northernmost point, thence continuing along said arc in a southwesterly direction until said arc meets the dividing line between the property now or formerly owned by WLVA of Lynchburg, Inc., and the property now or formerly owned by B.C. Cook, thence along the property line between the said property now or formerly owned by WLVA of Lynchburg, Inc., and the property now or formerly owned by B.C. Cook in a southeasterly direction a distance of approximately 90 feet to the easternmost corner of the property now or formerly owned by B.C. Cook, thence in a southwesterly direction along the dividing line between the property now or formerly owned by WLVA of Lynchburg, Inc., and the property now or formerly owned by B.C. Cook a distance of 330 feet to the point of beginning less and except that small portion of Lot 27, Section 10, Irvington Park and Common Area for Irvington Park Section 10 as shown on attached tax map, all as shown upon the site plan of the applicant submitted with its application.

. . . is hereby changed from B-5 (Conditional), General Business District to R-1, Single Family Residential District.

And the Director of Community Planning and Development shall forthwith cause the "Official Zoning Map of Lynchburg, Virginia," referred to in Section 35.1-4 of this Chapter to be amended in accordance therewith.

Adopted:

Certified:

Clerk of Council

071L

To: Planning Commission
From: Planning Division
Date: March 20, 2002
Re: **REZONING: B-5(C) to R-1 at 211 IRVINGTON SPRINGS ROAD**

I. PETITIONERS

James R. Burruss; Burruss Land Company, 2815 Langhorne Road, Lynchburg, VA 24503.
Representative: Jane Blickenstaff

II. LOCATION

The subject property is a tract of about 12.7 acres located at 211 Irvington Springs Road.
Property Owners: Gerald Shukow, 310 Broadway Huntington, New York 11746;
Gatti Development Corporation, 4706 Boonsboro Road, Lynchburg, Virginia 24503; and
Jesse L. and Sandra P. Stem, P.O. Box 6360, Lynchburg, Virginia 24505.

III. PURPOSE

The purpose of this petition is to rezone the subject property from B-5(C), General Business District, to R-1, Single-Family Residential District, in order to allow the residential development of the subject property and eliminate potential undue restrictions on the property from the previously approved commercial zoning.

IV. SUMMARY

- Petition agrees with the *General Plan*, which recommends a Medium Density Residential use.
- Petition will reduce the intensity of zoning of a small existing commercially used parcel.
- Petition is considered to be more compatible with the surrounding area than the existing zoning.

- **The Planning Division recommends approval of the rezoning petition.**
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V. FINDINGS OF FACT

1. **General Plan.** The Lynchburg *General Plan* recommends a Medium Density Residential use for the subject property. The subject petition proposes to rezone the property to a more restrictive zoning classification, as well as to use the property for a more restrictive use. The proposal will maintain the current practice of preserving existing residential areas as established by the *General Plan*.
 - **Zoning.** The existing commercial zoning was established in 1986 to allow the erection of a radio transmission tower on the property. In the event the use of the land for the tower was to terminate, part of one of the previously approved proffers notes that the property will be used for uses no more intensive than those permitted in the "R-1" district. The proposed residential development of the property may have some restrictions on the layout of structures and buffers, as well as the future repair or sale of the property. The proffer has been interpreted in differing ways and the petitioner has agreed to submit the subject petition to allow the residential development of the subject property and eliminate potential undue restrictions on the property from the previously approved commercial zoning. The petitioner is requesting a rezoning to a less intensive zoning classification than currently exists.
2. **Board of Zoning Appeals (BZA).** No action by the BZA is necessary.
3. **Surrounding Area.** There have been no recent rezoning petitions or CUP petitions in the vicinity of the subject property. The adjacent property to the north was approved in 1990 for a Conditional Use permit for the Irvington Park Planned Unit Development.
4. **Site Description.** The site is approximately 12.7 acres on which a commercial structure (WLVA Radio tower) is located. The site is surrounded by undeveloped land, except to the north, where it abuts a single-family residence and the Irvington Park PUD.
5. **Proposed Use of Property.** The purpose of the rezoning is to allow the residential development of the subject property and eliminate potential undue restrictions on the property from the previously approved

commercial zoning. The residential subdivision will consist of about 42 single-family lots, served by a proposed new public street ("Beacon Hill Way").

6. **Traffic & Parking.** The City Traffic Engineer had no comments of concern regarding the subject petition. The proposed use is not expected to generate a significant amount of traffic.
7. **Storm Water Management.** The Environmental Specialist of the Robert E. Lee Soil & Water Conservation District notes that a storm water management plan will be required only if the disturbed area exceeds 1,000 square feet. Other than street drainage, the pending subdivision does propose any new disturbed areas.
8. **Visual Impact.** The current submittal proposes the re-classification and use of a parcel of land for residential purposes. The development will contain lots ranging from about one to two acres in size and will be similar to existing residences in the area. There is no concern about the visual impact the proposed use will have on adjacent residential areas. The proposed residential use is less intensive than the previously approved use that was allowed and will not have an adverse impact on the future continued stability of the surrounding area. The proposed rezoning is compatible with the surrounding land uses and zoning.
9. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on February 19 and noted the need for a few revisions, all of which were minor in nature and will need to be addressed by the petitioner.

V. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Burruss Land Company to rezone about 12.9 acres at 211 Irvington Springs Road from a B-5 (Conditional), General Business District, to an R-1, Single-Family Residential District, to allow the residential development of the subject property and eliminate potential undue restrictions on the property from the previously approved commercial zoning.

This matter is respectfully offered for your consideration.

William K. McDonald, AICP
Acting City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. John W. Jennings, Fire Marshal
Ms. Judith C. Wiegand, Strategic Planner
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Karl Cooler, Building Commissioner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. James R. Burruss, Petitioner
Ms. Jane Blickenstaff, Representative

VI. ATTACHMENTS

1. **Vicinity Zoning Pattern**
(see attached map)
2. **Vicinity Proposed Land Use**
(see attached map)
3. **Site Plan**
(see attached site plan)

MINUTES FROM THE MARCH 20, 2002 PLANNING COMMISSION MEETING

Petition of Burruss Land Company to rezone approximately 12.7 acres at 211 Irvington Springs Road from B-5(Conditional), General Business District, to R-1, Single Family District, to allow the residential development of the subject property and eliminate potential undue restrictions on the property from the previously approved commercial zoning.

Mr. William McDonald, Acting City Planner, explained that the basic intent of the petition was to eliminate five radio towers located on the property.

Mr. Doyle Allen, Hurt and Proffitt, Inc., represented the petitioner in this request. Mr. Allen said they were requesting that approximately 12.7 acres be rezoned. He explained that currently there were five radio towers on the property. He said the first four towers had been on the property for numerous years and were annexed into the City from Bedford County, and the fifth tower was built in 1986. He said at that time the 420 feet of property surrounding the tower was rezoned from R-1 to B-5(C). Mr. Allen concluded by saying that the towers were now being removed and the petitioner wanted to clean up the zoning of the area by reversing the zoning back to it's previous R-1 status.

Commissioner Echols asked Mr. Allen if the developer would be interested in connecting the neighborhood to Peaks View Park as Commissioner Flint suggested earlier.

Mr. Allen said the developer was very much opposed to extending the access from the development into the park. He said this was intended to be a residential neighborhood and they do not want the streets to be congested with traffic associated with the park. He said this would not be beneficial to the homeowners.

Commissioner Flint said Mr. Allen's point was well taken and he concurred with his reasons. He withdrew his previous comment to connect the two areas.

Mr. McDonald read for the record a phone message that was received from Mrs. Jane Larkin of the Irvington Springs neighborhood concerning the traffic in the area. She said there were bad curves on the road and it was made even more dangerous due to the heavy deer population in the area.

After further discussion, Commissioner Pulliam made the following motion, which was seconded by Commissioner Flint and passed with the following vote:

"Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Burruss Land Company to rezone about 12.9 acres at 211 Irvington Springs Road from a B-5 (Conditional), General Business District, to an R-1, Single-Family Residential District, to allow the residential development of the subject property and eliminate potential undue restrictions on the property from the previously approved commercial zoning."

AYES:	Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins, Worthington	7
NOES:		0
ABSTENTIONS:		0